IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 8013 of 2005

Between:

Smt.Kalavathi, W/o.Ramadas Namdev
R/o.H.No.17-329, Venkateshwar Nagar, Malkajgiri R.R.District, Hyderabad.

..... PETITIONER

AND

1. The General Manager, 3rd Floor, Rail Nilayam
   South Central Railway, Secunderabad.
2. Smt. Pryag Bai, W/o.Late.Ramadas Namdev,
   R/o.C/o.Devendra Wafare, Hanuma Nagar, Behind KEB Qrts, Statinmarea, Gulbarga, Karnataka State.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or order or directions more particularly one in the nature of writ of Mandamus directing the respondent No. 1 to arrange payment of settlement dues along with monthly family pensionary benefits from the date of death i.e 2.7.2002 with compassionate appointment to son of the widow with consequential payment of settlement dues with arrears of family pension.

Counsel for the Petitioner: MR.G.SANYASI RAO

Counsel for the Respondent No.1: MR. N. PARAMESWAR REDDY (SC FOR RAILWAYS)

Counsel for the Respondent No.2 : MR.G.S.SANGHI

The Court at the admission stage made the following :

ORDER:

This writ petition is filed seeking a direction to the first respondent to arrange payment of settlement dues along with monthly family pensionery benefits from the date of the death of the husband of the petitioner.

2. The learned Counsel for the petitioner contended that the husband of the petitioner worked in the respondent-department and died in harness. Being the first wife of the deceased, the petitioner is entitled to all the death benefits of her husband. The learned Counsel for the petitioner also relied on a decision reported in **Rameshwari Devi V. State of Bihar** and contended that the respondents may be directed to settle the pensionery benefits to the petitioner.

3 . On the other hand, the learned Standing Counsel appearing for the first respondent contended that the petitioner was directed to be produced Succession Certificate from the competent Court of Law so as to settle the dues, and instead of doing so, the petitioner filed the present writ petition, which is totally devoid of merits and hence, he prays to dismiss the writ petition.

4 . The husband of the petitioner died on 02.07.2002. It is claimed by the petitioner that she is the legally wedded wife of the deceased employee and therefore, she is entitled to the pensionery benefits.

5. In the decision relied upon by the learned Counsel for the petitioner, the Supreme Court held that on the second objection, it is correct that no Civil Court has pronounced if there was a marriage between Yogmaya Devi and Narain Lal in accordance with the Hindu rights. That would, however, not debar the State Government from making an enquiry about the existence of such marriage and act on that in order to grant pensionary and other benefits to the children of Yogmaya Devi. In the above decision, the marriage itself is in dispute. In view of the above circumstances, it was held that the State Government can make an enquiry.

6 . The proceedings issued by the first respondent would go to show that the petitioner was advised to produce Succession Certificate from the competent Court of Law duly impleading two wives of the deceased employee to enable the office to arrange the payment. The proceedings have been issued to the petitioner on 29.10.2002. As on today, she has not taken any steps to get the succession certificate from the competent Civil Court. Therefore, it is for the petitioner to approach the Court of Law for obtaining Succession Certificate duly impleading the other wife of the deceased, Prayag Bai, who is shown as second respondent herein. The action of the first respondent does not show any contrariness to the service regulations.

7 . The other ground mentioned by the learned Counsel for the petitioner that the

petitioner is a poor woman and she is not in a position to approach the Court as it is expensive, cannot be a ground for allowing the writ petition, inasmuch as she can well approach the legal services authority for seeking assistance.

8. Therefore, the writ petition is disposed of with a direction to the petitioner to obtain a Succession Certificate from the competent Court of Law. No costs.

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K.C.BHANU, J.

Dated:12.04.2005

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Copy to:

1. The General Manager,
   3rd Floor, Rail Nilayam,
   South Central Railway,
   Secunderabad.
2. Two C.D. Copies.